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C O N F I D E N T I A L SECTION 01 OF 05 YEREVAN 000426

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TAGS: [PREL](#) [EAID](#) [PGOV](#) [PHUM](#) [KDEM](#) [AM](#)
SUBJECT: MCC ELIGIBILITY UPDATE -- NEW ARMENIAN
GOVERNMENT'S STALLED PROGRESS ON "RULING JUSTLY"

REF: A. YEREVAN 274
[B](#). STATE 33062 (NOTAL)
[C](#). YEREVAN 411

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Classified By: CDA Joseph Pennington, reasons 1.4 (b,d)

SUMMARY

[1](#)1. (C) Armenia's new president has done little to correct the grave failings of the February election and post-election crisis. His public and private messages have become increasingly hardline (see Ref C example). He acknowledges no government fault for widespread election fraud, police brutality, or politically-motivated arrests and prosecutions. Authorities have yet to lift a de facto ban on public assembly. Ongoing trials against political opposition figures are imposing multi-year prison sentences for highly dubious charges. The government's proposal for political dialogue is a highly suspect, Russian-model "public chamber" that is unlikely to be taken seriously by opposition or civil society. In the good news column, the media environment has improved slightly, Ter-Petrossian's house arrest has ended, and the notoriously corrupt Customs head has been fired.

[1](#)2. (C) Our judgment is that Armenia has by now earned a clearly failing grade on the democracy and human rights performance which the "Ruling Justly" indicators are intended to measure. Rather than working overtime to repair the damage, Armenia still seems very much on a downward path. On those few items where the government has suggested it will take positive steps, progress remains rhetorical. U.S. advice (Ref B) on urgent democratic reform has been ignored. Public calls from the Parliamentary Assembly of the Council of Europe (PACE) and various European Union entities along similar lines have been likewise ignored. We reluctantly conclude that Armenia is on course to merit suspension of its Millennium Challenge Compact this year. Septel will outline our recommendations for the way forward; this cable is a status update on Armenian progress, especially on Ref B points. END SUMMARY

ARMENIA'S RESPONSE TO OUR PRESCRIPTION

13. (C) In assessing Armenian authorities' response to their crisis of legitimacy, we start by going down the list of suggested actions that we conveyed to the Armenian government in late March (Ref B). (NOTE: Based on e-mail instructions, we had conveyed reftel non-paper to Deputy Foreign Minister Kirakossian and Americas Director Armen Yeganian March 27 after the Department (EUR/CARC) had conveyed it to Armenian Ambassador Tatoul Markarian March 26. CDA conveyed the same non-paper to then-Prime Minister Serzh Sargsian's senior aide Mikhael Minasyan April 1; Minasyan had by then already received a copy from MFA and was fully familiar with its contents. It was therefore surprising to us when Sargsian claimed in an April 4 meeting with EUR DAS Bryza not to know anything about the non-paper. END NOTE)

14. (C) Following is a point-by-point summation of Armenia's progress against our non-paper recommendations. The non-paper was divided into short and longer-term actions.

SHORT-TERM ACTIONS:

-- Lift all elements of State of Emergency (SOE) and associated restrictions on freedom of assembly: The State of Emergency ended as scheduled March 20, but the ban on public assembly was extended in a law that sailed through the National Assembly (both necessary "readings" on the parliament floor, an emergency provision to put the law into immediate effect, and presidential signature, all accomplished in one day -- March 19). The new law gives the government carte blanche to deny public demonstrations at will. In response to U.S. and European criticism, the GOAM promised quick action to lift the more draconian aspects of the law,

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but then postponed action during the May session of parliament, making June now the first opportunity to lift this de facto ban on freedom of assembly. Press accounts report that there will be no legislative changes until at least September, but this is unconfirmed. In practice, the government has officially allowed only one public rally, to a pro-opposition NGO called "Women for Peace." After the NGO allowed pro-Levon Ter-Petrosian (LTP) politicians to speak, all future requests were denied, and police told the organizers that allowing the opposition speakers at the previous rally was the reason for the denials. Pro-LTP forces also had great difficulty renting a public meeting hall for an indoor convention due to a de facto ban imposed on both public and private sector venue owners (including the Marriott Hotel in Yerevan). Authorities finally made a government hall available to LTP on May 2, after the LTP team made plans to hold its conference in Tbilisi, Georgia. The media black-out imposed during the SOE has ended, enabling the opposition print media to resume normal publication.

-- Allow peaceful public demonstrations: As noted above, this has not been done.

-- End political arrests and prosecutions:
Politically-motivated arrests and prosecutions of opposition politicians and activists are continuing. Courts have begun sentencing these activists to prison terms of several years each. Embassy officers have observed many of these trials and have found them strongly politically biased: defense attorneys have demolished sham prosecution cases point by point, while numerous defense witnesses disavowed under oath testimony police had falsely attributed to them, yet judges ignore all this contrary evidence to side with the prosecution. The most prominent political figures remain in indefinite pre-trial detention. (Septel will provide a more detailed update on political detainee trials).

-- End LTP's de facto house arrest: This has been done. The former president now has freedom of movement, after authorities gradually lowered the police presence around his

home over a period of weeks. For several weeks LTP's home was surrounded by an imposing police perimeter, with major encampments guarding both front and back doors, and police were stopping and searching vehicles on the way in and out. For a time, access to the home was denied to all but family members. All of that has now been eliminated.

-- Release those detained for non-violent offenses, and ensure fair trials for remainder. Prosecute security forces' personnel for improper use of force: This has not been done, as noted above. Not one single member of the police or security forces has been investigated, or even questioned, for excessive use of force. So far as we can tell, there has been no official inquiry into the circumstances of the 10 persons (eight civilians, two police) known to have been killed during the March 1-2 events.

-- Media freedom: Normal Internet access has been restored, after being blocked during the State of Emergency. While the government still heavily dominates electronic media, there have been modest gestures toward improving opposition figures' access to television. LTP lieutenant Levon Zurabian was invited to an interview on the state-run Public Television (H1), which was a positive step, despite the interviewer's overtly hostile, badgering style of questioning, and constant interruptions of Zurabian. A pro-LTP youth representative received a more respectful hearing on the pro-governmental Kentron TV channel that same day. Opposition-related news items have begun to be covered by television outlets -- apparently following an instruction to do so from the president's office -- but this footage is routinely aired with sharply negative editorial voice-over. Moreover, there has been no effort toward structural reform to change the partisan, pro-government make-up of the Television and Radio regulatory commission and of the state-run television and radio networks. The President has said publicly he sees no reason to modify those structures.

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Thus, the government continues to exert dominance over television and radio editorial policy. The only exceptions are U.S.-funded Radio Liberty (about which the president and his proxies continue to complain bitterly and speciously at every opportunity for alleged anti-government bias), and some small, regional television stations in Armenia's provinces whose distance from the capital and small audiences bring lighter government intervention. The multi-agency government witch hunt against the Gyumri-based Gala regional television station appears to have lessened. Tax authorities continue to demand heavy additional "back tax" payments from Gala and private businesses remain afraid to advertise on the opposition station.

-- Launch national political dialogue: Nothing concrete has been done. The government has mooted a worrisome proposal for a Russian-style "Public Chamber" ostensibly to create a channel of communication between civil society and opposition political groups, on one hand, and government, on the other. The Russian model is generally seen to have been a sham, as the Kremlin packed the "Public Chamber" with friendly intelligentsia and entertainers, and then used the existence of the docile entity as a rhetorical weapon to rebut the voices of legitimate political and civil society activists. We will reserve judgement, however, on the Armenian version until it has been established. In fact, we have quietly shared with a key, well-meaning presidential aide some USAID-supplied critique of the Russian model, and made a few suggestions for how to make such a "Public Chamber" a more constructive tool of political dialogue.

-- Investigate/Prosecute election law violations: The government has prosecuted several low-level cases, heavily throwing the book at pro-opposition figures, while administering suspended sentences to a few sacrificial lamb pro-government officials. The most egregious cases -- most notably including a recount invasion by a pro-government goon

squad that brazenly stole packages of marked ballots under the direct gaze of the U.S. charge d'affaires, an accredited OSCE long-term observer, and dozens of other witnesses, including police officers who stood idly by -- have gone completely uninvestigated.

-- Public/non-partisan or international commission of inquiry into March 1-2 events: Nothing has been done to date. The parliament has announced plans to create a parliamentary inquiry, but details remain unknown. It is difficult to see how the parliament (with only seven out of its 131 members representing the opposition) could conduct a credible, non-partisan inquiry. The speaker has said that extra-parliamentary opposition will be invited to join, so a possibility exists that this could be done well. There is no information about when this panel of inquiry will be named, much less start to work.

LONGER-TERM ACTIONS:

Nothing has been done on any one of these items, nor have authorities given even rhetorical attention to any of the steps we suggested.

OTHER INDICATIONS

15. (C) CUSTOMS/TAX REFORM: The president has fired the notoriously corrupt chairman of the State Custom Committee, and publicly called the agency on the carpet for corruption and inefficiency. Widespread anecdotal reports from business representatives and media suggest that customs officers have sharply reduced bribe-taking under orders from the top. (This implies, of course, that it has always been within the government's power to order a halt to customs corruption, but that it has previously chosen not to do so). Meanwhile, a new first deputy chairman position has been created at the State Tax Service, with a mandate for reform. This evidence, plus repeated statements by senior government officials, suggests that the government has chosen the revenue agencies

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as its first priority target of reform. This would be a tremendously positive step if the government sees it through, and one which potentially would earn the government significant goodwill from the public. In the short term, however, it has actually made customs processing more difficult by shining a light on the cumbersome, inefficient, and costly official Customs regime.

16. (C) POLICE REFORM?: The Prime Minister also mooted to EUR Assistance Coordinator Tom Adams that the law enforcement agencies are in desperate need of reform. This is a welcome recognition of the serious problems with the police agencies. If any concrete initiative in this direction comes to pass, that would also be a welcome, and difficult, reform step. The obvious time to replace the top leaders of the police and the National Security Service would have been when the new cabinet was appointed, but the President did not take that opportunity to do so. In fact, some insiders have said privately that the Prosecutor General and the law enforcement establishment are the ones most determined to jail opposition figures, and that the president feels unable to oppose them. True or not, real law enforcement and criminal justice reform is badly needed, and to this point authorities are continuing to use these services as a political weapon.

17. (C) THE NEW CABINET: The most closely watched political signal of the new president was the naming of his new prime minister and cabinet. In the event, this turned out to be a tepid gesture. The new prime minister is a decent if uninspiring choice -- a technocrat who clearly sees his mandate as economic reform and self-avowedly prefers not to discuss politically sensitive topics. While some insiders allege that the new prime minister was, as the Central Bank chairman, at least a facilitator for high-level corruption

under former President Robert Kocharian and then-PM (and before that Defense Minister) Serzh Sargsian, his public reputation is more neutral, and he is seen as a competent manager. Most of the cabinet was reappointed, including some notoriously corrupt ruling party figures. Where a few new technocratic ministers were appointed and portfolios reshuffled, the pattern signals a government intention to focus reform on economic management. Overall, there was nothing to suggest that this is a cabinet with a bold reform mandate.

18. (C) NATIONAL DEMOCRATIC INSTITUTE: One perennial irritant that would be an easy show of good faith on the part of the new president, would be to allow long-denied legal registration of the local National Democratic Institute (NDI) office. This is something that President Kocharian had stubbornly refused, and was an explicit Armenian commitment in the October 2007 U.S.-Armenian Task Force (USATF) Action Plan. Moreover, President Kocharian personally promised EUR/ACE Tom Adams in Fall 2006 that NDI would be registered "after the elections," which at the time we understood to mean the May 2007 parliamentary elections. When we raised this issue again with Kocharian after the May 2007 election, he insisted he had always meant after the February 2008 presidential election. That too has now passed, and we have renewed our advocacy on NDI's behalf through the Foreign Ministry and other key government interlocutors. Assistance Coordinator Adams raised it personally with President Sargsian, whose response was evasive. We have had no formal reply, but informally are asked to be patient, though no one in government offers any legal or political justification for the delay. NDI programming has continued in the most unprovocative way. For the last nine months, the chief of party has been a local Armenian national, which we would expect would be even more reassuring to the government.

19. (C) USAID ANTI-CORRUPTION IMPLEMENTER: USAID in 2007 launched a multi-million dollar, three-year project, Mobilizing Action Against Corruption (MAAC). The Canadian chief of party and Bulgarian deputy chief of party have been repeatedly refused residence permits without any real explanation. They have been given a series of visas (mostly 60 days' duration, though this has varied). Our inquiries

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with then-Prime Minister Sargsian elicited only that the matter was "difficult" -- without explaining why or how it is problematic -- but that they would see what could be done after the election. We have renewed our advocacy on this point via diplomatic note to the Foreign Ministry, and are assured informally that the issue is being "processed." Like the NDI registration, this seems like it should be an easy way for the GOAM to take a cost-free action of good faith on the democracy and good governance front.

COMMENT

110. (C) While not without small positive steps, on balance the government's performance since Serzh Sargsian's April 9 inauguration has failed to change Armenia's political course. The most glaring example is the government's continuing arrest, detention, and prosecution of politicians and political activists on transparently specious charges. It has also become clear that authorities have no appetite whatsoever to hold anyone in government or pro-governmental political forces accountable for the serious crimes that took place in connection with the election or the post-election violence. From ballot-box stuffing to coercion of public sector employees, voter intimidation to police brutality, and the uninvestigated deaths of ten Armenians on March 1-2, the government apparently plans to deny, cover up, and deflect all inquiries that might reveal culpability on the part of pro-governmental forces. Neither is the GOAM showing any serious indication of structural reforms that would at least tacitly acknowledge these problems and create a more level

political playing field for the future. Fundamentally, this government remains in denial that it presides over a deeply polarized electorate, whose anger at the suppression of its political rights has been left with no legitimate outlet. We still believe that the only solution to the new government's crisis of legitimacy is bold action to remediate the damage, by at least tacitly conceding some fault and opening outlets to legitimate political expression. This government seems instead to be investing more heavily in a strategy of entrenchment.

PENNINGTON